

1 with each bulk sampling location, and the locations and types of sampling or studies
2 to be conducted at each bulk sampling location.

3 (b) A description of the methods to be used for the bulk sampling.

4 (c) A site-specific plan for controlling surface erosion that conforms to
5 requirements under ss. 281.33 (3) and 283.33 and that identifies how impacts to
6 plant and wildlife habitats will be avoided or minimized to the extent practicable.

7 (d) A revegetation plan for each area where bulk sampling will be performed
8 that describes how adverse impacts to the environment will be avoided or minimized
9 to the extent practicable and how the site will be revegetated and stabilized and that
10 identifies how adverse impacts to plant and wildlife habitats will be avoided or
11 minimized to the extent practicable.

12 (e) The estimated time for completing the bulk sampling and revegetation of
13 the bulk sampling locations.

14 (f) A description of any known adverse environmental impacts that are likely
15 to be caused by the bulk sampling and how those impacts will be avoided or
16 minimized to the extent practicable.

17 (g) A description of any adverse effects, as defined in s. 44.31 (1), that the bulk
18 sampling might have on any historic property, as defined in s. 44.31 (3), that is a
19 listed property, as defined in s. 44.31 (4), that is on the Wisconsin inventory of historic
20 places, as defined in s. 44.31 (12), or that is on the list of locally designated historic
21 places under s. 44.45; or any scenic or recreational areas; and plans to avoid or
22 minimize those adverse effects to the extent practicable.

23 (2m) The department shall protect as confidential any information, other than
24 effluent data, contained in a bulk sampling plan and in any application for an
25 approval that is required before the bulk sampling may be implemented, upon a

1 showing that the information is entitled to protection as a trade secret, as defined in
2 s. 134.90 (1) (c), and any information relating to the location, quality, or quantity of
3 a ferrous mineral deposit, to production or sales figures, or to processes or production
4 unique to the applicant or that would tend to adversely affect the competitive
5 position of the applicant if made public.

6 (3) Within 14 days of receipt of a bulk sampling plan, the department shall
7 identify for the applicant, in writing, all approvals that are required before the bulk
8 sampling may be implemented, any waivers, exemptions, or exceptions to those
9 approvals that are potentially available, and any information that the department
10 needs to issue the approvals or to issue a decision on any waiver, exemption, or
11 exception. If no approvals are required, the department shall notify the applicant
12 that no approvals are required and that the applicant may proceed with the bulk
13 sampling.

14 (3e) If a storm water discharge permit under s. 283.33 (1) (a) or a water quality
15 certification under rules promulgated under subch. II of ch. 281 to implement 33
16 USC 1341 (a) is required before bulk sampling may be implemented, the person filing
17 the bulk sampling plan may apply for and be issued the permit or certification.

18 (3m) The department shall act on any required construction site erosion
19 control and storm water management approval, notwithstanding any authorization
20 by the department of a local program to administer construction site erosion control
21 and storm water management requirements.

22 (3s) An applicant shall submit all of the following at the same time:

23 (a) Applications for individual approvals identified under sub. (3).

24 (b) Applications for coverage under general permits or registration permits
25 identified under sub. (3).

1 (c) Applications for waivers, exemptions, or exceptions identified under sub.
2 (3).

3 (d) A bond, as provided in sub. (5).

4 **(4)** (a) Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289,
5 or 291 or in a rule promulgated under those chapters that is applicable to an approval
6 identified under sub. (3), the application for any approval, for a waiver, exemption,
7 or exception to an approval, or for a determination that the proposed bulk sampling
8 activity is below the threshold that requires an approval, is considered to be complete
9 on the 30th day after the department receives the application, unless, before that
10 day, the department provides the applicant with written notification that the
11 application is not complete, stating the reason for the determination and describing
12 the specific information necessary to make the application complete.

13 (b) If the department provides a notice under par. (a), the applicant shall
14 supplement the application by providing the specified information. The application
15 is complete when the applicant provides the information.

16 (c) If the department determines that the issuance of an approval is contingent
17 upon the issuance of a permit under s. 29.604 (6m), and if the application for the
18 permit under s. 29.604 (6m) is filed with the approval application, the department
19 may not determine that the approval application is incomplete on the basis that the
20 department has not yet issued the permit under s. 29.604 (6m).

21 **(5)** (a) A person who intends to engage in bulk sampling shall submit with the
22 bulk sampling plan a bond in the amount of \$5,000 that is conditioned on faithful
23 performance of the requirements of this section, that is issued by a surety company
24 licensed to do business in this state, and that provides that the bond may not be

1 canceled by the surety, except after not less than 90 days' notice to the department
2 in writing by registered or certified mail.

3 (b) If the surety for a bond submitted under par. (a) issues a cancellation notice,
4 the person who filed the bulk sampling plan shall deliver a replacement bond at least
5 30 days before the expiration of the 90-day notice period. If the person fails to submit
6 a replacement bond, the person may not engage in bulk sampling until the person
7 submits a replacement bond.

8 (c) If the license of the surety company for a bond submitted under par. (a) is
9 revoked or suspended, the person who filed the bulk sampling plan, within 30 days
10 after receiving written notice from the department, shall deliver a replacement bond.
11 If the person fails to submit a replacement bond, the person may not engage in bulk
12 sampling until the person submits a replacement bond.

13 (d) The department may require that the amount of the bond submitted under
14 this subsection be increased at any time, if the department determines that it is
15 unlikely that the bond would be adequate to fund the cost to this state of completing
16 the revegetation plan.

17 (e) The department shall release a bond submitted under this subsection one
18 year after the time for completing the bulk sampling and the revegetation set forth
19 in the bulk sampling plan if the department determines that the person who engaged
20 in bulk sampling has complied with this section.

21 (6) (a) If the department determines that proposed bulk sampling will have an
22 adverse effect, as defined in s. 44.31 (1), on a historic property, as defined in s. 44.31
23 (3), that is a listed property, as defined in s. 44.31 (4), that is on the Wisconsin
24 inventory of historic places, as defined in s. 44.31 (12), or that is on the list of locally
25 designated historic places under s. 44.45, but that the applicant is taking measures

1 to minimize that adverse effect, no notice to the state historic preservation officer
2 under s. 44.40 (1) or negotiations between the department and state historic
3 preservation officer under s. 44.40 (3) are required.

4 (b) If an adverse effect described in par. (a) cannot practicably be minimized,
5 any negotiations between the department and state historic preservation officer
6 shall be concluded no later than 60 days after the date on which the application for
7 the approval that authorizes the bulk sampling activity that will have an adverse
8 effect is considered to be complete under sub. (4).

9 (7) Notwithstanding any provision in ch. 23, 29, 30, 169, 281, 283, 285, 289, or
10 291 or a rule promulgated under those chapters applicable to an approval identified
11 under sub. (3), all of the following apply:

12 (a) When considering an application for an approval identified under sub. (3),
13 the department shall recognize the fixed location of the metallic mineral deposits,
14 the water needs inherent in mining, and the need for mining waste sites and
15 processing facilities, including wastewater and sludge storage or treatment lagoons,
16 to be contiguous to the location of the ferrous mineral deposits.

17 (b) When issuing an approval, the department shall require the bulk sampling
18 activity for which the approval is issued to be conducted at locations that result in
19 the fewest overall adverse environmental impacts, to the extent practicable.

20 (8) In determining whether to approve or deny an application for an approval
21 identified under sub. (3), the department shall consider the site-specific erosion
22 control plan, the revegetation plan, and any compensation or mitigation under s.
23 295.60, any measures under s. 295.605, or any conservation measures under s.
24 295.61 that the applicant proposes to take.

1 (9) Notwithstanding any inconsistent period in ch. 23, 29, 30, 169, 281, 283,
2 285, 289, or 291 or in a rule promulgated under those chapters that is applicable to
3 an approval identified under sub. (3), the department shall approve or deny the
4 application within 30 days after the day on which the application is considered to be
5 complete under sub. (4) if any of the following apply:

6 (a) The application is for a waiver, exemption, or exception to an approval for
7 a bulk sampling activity or for a determination that the proposed bulk sampling
8 activity is below the threshold that requires an approval.

9 (b) The application is for a determination of eligibility for coverage under a
10 general permit or a registration permit.

11 (10) (a) Notwithstanding any inconsistent period in ch. 23, 29, 30, 169, 281,
12 283, 285, 289, or 291 or in a rule promulgated under those chapters that is applicable
13 to an approval identified under sub. (3), the department shall approve or deny any
14 application for an approval identified under sub. (3) to which sub. (9) does not apply
15 within 60 days after the date on which the application is considered to be complete
16 under sub. (4), unless the application is for an individual permit for which federal law
17 requires the opportunity for public comment or the ability to request a public hearing
18 prior to issuance of the approval.

19 (b) The department shall publish a class 1 notice, under ch. 985, that describes
20 the availability of information concerning the activity for which an approval
21 described in par. (a) is required, its proposed decision, its draft approval, information
22 or summaries related to the approval, the department's analyses and preliminary
23 determinations relating to the approval, the preapplication description under s.
24 295.46, any additional information that a law concerning the approval requires to be

1 made available, and the opportunity to submit written comments within 30 days
2 after the notice is published.

3 (c) In the notice under par. (b), the department shall also specify the date, time,
4 and location of the public informational hearing. The department shall send the
5 notice to any person to whom the department is required to give notice of any
6 proposed determination, application, or hearing concerning an approval described
7 in par. (a) under the laws relating to the issuance of the approval.

8 (d) If there is more than one approval described in par. (a), the department shall
9 issue one notice and coordinate the public comment period for all of the approvals.
10 If possible, the department shall coordinate the notice and the public comment
11 period for an approval that is an individual permit for which federal law requires the
12 opportunity for public comment or the ability to request a public hearing prior to
13 issuance of the approval with notice and the public comment period for the approvals
14 described in par. (a).

15 (e) The department shall hold a public informational hearing within 30 days
16 after publishing the notice under par. (b). The department shall hold the public
17 informational hearing in the county where the majority of the proposed bulk
18 sampling site is located. If there is more than one approval described in par. (a), the
19 department shall hold a single public informational hearing covering all of the
20 approvals and the preapplication description under s. 295.46. If possible, the
21 department shall include consideration of an approval that is an individual permit
22 for which federal law requires the opportunity for public comment or the ability to
23 request a public hearing prior to issuance of the approval in the public informational
24 hearing under this paragraph. The public informational hearing under this
25 paragraph is not a contested case hearing under ch. 227.

1 **(10g)** (a) If it is not possible to coordinate the public comment period and public
2 informational hearing for an approval that is an individual permit for which federal
3 law requires the opportunity for public comment or the ability to request a public
4 hearing prior to issuance of the approval with the public comment period and public
5 informational hearing under sub. (10), the department shall issue a separate public
6 notice and hold a separate public informational hearing for the approval in
7 accordance with the law governing the approval.

8 (b) The department shall approve or deny the application for an approval to
9 which par. (a) applies within 180 days after the date on which the application is
10 considered to be complete under sub. (4).

11 **(10r)** An approval identified under sub. (3) is issued upon mailing and is final
12 and effective upon issuance.

13 **(11)** The department is not required to prepare an environmental impact
14 statement or an environmental assessment for an approval required for bulk
15 sampling.

16 **295.46 Preapplication description.** (1) A person who files a bulk sampling
17 plan under s. 295.45 with regard to a proposed mining project shall file, together with
18 the bulk sampling plan, a general description of the proposed mining project. A
19 person who proposes to engage in a mining project, but who does not file a bulk
20 sampling plan, shall file a general description of the proposed mining project with
21 the department at the time that the person provides the notice of intent to file an
22 application for a mining permit under s. 295.465. The general description shall
23 include all of the following:

24 (a) A description of the proposed mining site.

25 (b) A map that shows all of the following:

1 1. The boundaries of the area of land that will be affected by the proposed
2 mining project.

3 2. The location and names of all streams, roads, railroads, pipelines, and utility
4 lines on or within 1,000 feet of the proposed mining site.

5 3. The name or names of the owner or owners of the proposed mining site.

6 4. The name of each city, village, or town in which the proposed mining site is
7 located and the name of any other city, village, or town that is located within 3 miles
8 of the proposed mining site.

9 5. The federal natural resources conservation service land capabilities
10 classifications of the area affected by the proposed mining project.

11 6. The elevation of the water table.

12 (c) A general description of the nature, extent, and final configuration of the
13 proposed excavation and mining site, including an estimate of the production of
14 tailings, waste rock, and other refuse and the location of their disposal.

15 (d) A general conceptual description of the likely operating procedures of the
16 proposed mining project.

17 (e) The likely location, and a general description, of the excavation, waste site,
18 and processing facilities relating to the proposed mining project.

19 (2) (a) If the department provides notice to an applicant under s. 295.45 (3) that
20 no approvals are required for bulk sampling or if a person who proposes to engage
21 in a mining project files a preapplication description of the proposed mining project
22 at the time that the person provides the notice of intent to file an application for a
23 mining permit under s. 295.465 because the person did not file a bulk sampling plan,
24 the department shall publish a class 1 notice, under ch. 985, of a public informational
25 hearing on the proposed mining project. The department shall publish the notice

1 when if notifies the applicant that no approvals are required or after it receives the
2 notice of intent.

3 (b) In a notice under par. (a), the department shall do all of the following:

4 1. Describe the availability of the preapplication description.

5 2. Describe the opportunity to submit written comments within 30 days after
6 the notice is published.

7 3. Specify the date, time, and location of the public informational hearing.

8 (c) The department shall send a notice under par. (a) to all of the following:

9 1. The clerk of any city, village, town, or county within which any part the
10 proposed mining site lies.

11 2. The clerk of any city, village, or town, contiguous to any city, village, or town
12 within which any portion of the proposed mining site is located.

13 3. Any regional planning commission for the area within which the affected
14 area lies.

15 4. Any state agency that the department knows may be required to grant a
16 permit or other authorization necessary for the proposed mining project.

17 5. Any interested person who has requested notification.

18 (d) The department shall hold a public informational hearing within 30 days
19 after publishing the notice under par. (a). The department shall hold the public
20 informational hearing in the county in which the majority of the proposed mining site
21 is located.

22 **295.465 Preapplication notification.** (1) At least 12 months before filing
23 an application for a mining permit under s. 295.47, a person proposing to engage in
24 a mining project shall notify the department in writing of the intention to file an
25 application for a mining permit. After receiving the notification, the department

1 shall hold at least one meeting with the person to make a preliminary assessment
2 of the project's scope, to make an analysis of alternatives, to identify potential
3 interested persons, and to ensure that the person making the proposal is aware of
4 all of the following:

5 (a) The approvals, including the filing requirements for the approvals, that the
6 person may be required to obtain for the mining project.

7 (b) The requirements for submission of an environmental impact report and for
8 submission of any other information required by the department to prepare an
9 environmental impact statement under s. 295.53.

10 (c) The information the department will require to enable the department to
11 process the application for the mining permit in a timely manner.

12 (2) Within 60 days of a meeting under sub. (1), the department shall provide
13 all of the following to the person:

14 (a) A detailed written summary of the requirements under sub. (1) (a) to (c).

15 (b) Any available information relevant to the potential impacts of the mining
16 project on rare, threatened, or endangered species and historic or cultural resources
17 and any other information relevant to potential impacts that may occur from the
18 project that are required to be considered under s. 1.11.

19 (c) Available information to evaluate the environmental impact of the project
20 and to expedite the preparation of the environmental impact report and the
21 environmental impact statement, including information concerning preliminary
22 environmental reviews, field studies, and investigations; monitoring programs to
23 establish baseline water quality; laboratory studies and investigations; advisory
24 services; and the timing and the processes associated with any necessary
25 consultations with other state or federal agencies and within the department, such

1 as those required for endangered resources and cultural resource consultations and
2 approvals.

3 **295.47 Application for mining permit.** (1) (a) No person may engage in
4 mining or reclamation at any mining site unless the mining site is covered by a
5 mining permit and by written authorization to mine under s. 295.59 (3). An
6 applicant shall submit an application for a mining permit to the department in
7 writing and in reproducible form and shall provide the number of copies that are
8 requested by the department. An application and a mining permit are required for
9 each separate mining site. The applicant shall distribute copies of the application
10 to the clerk of any city, village, town, or county with zoning jurisdiction over the
11 proposed site, to the clerk of any city, village, town, or county within whose
12 boundaries any portion of the proposed mining site is located, and to the main public
13 library of each city, village, town, or county with zoning jurisdiction over the proposed
14 site or within whose boundaries any portion of the proposed site is located.

15 (b) If a person proposes to conduct mining at a mining site that includes an
16 abandoned mining site, the person shall include plans for reclamation of the
17 abandoned mining site, or the portion of the abandoned mining site that is included
18 in the mining site, in its mining plan and reclamation plan.

19 (2) As a part of each application for a mining permit, the applicant shall furnish
20 all of the following:

21 (a) A mining plan under s. 295.48.

22 (b) A reclamation plan under s. 295.49.

23 (c) A mining waste site feasibility study and plan of operation under s. 295.51.

1 (e) The name and address of each owner of land within the mining site and each
2 person known by the applicant to hold any option or lease on land within the mining
3 site.

4 (f) A list of all mining permits in this state held by the applicant.

5 (g) Evidence the applicant has applied or will apply for necessary permits or
6 other permissions under all applicable zoning ordinances and that the applicant has
7 applied or will apply to the department for any approval and has applied or will apply
8 for any other license or permit required under state law.

9 (h) 1. The information specified in subd. 2. concerning the occurrence of any of
10 the following within 10 years before the application is submitted:

11 a. A forfeiture by the applicant, principal shareholder of the applicant, or a
12 related person of a mining reclamation bond that was sufficient to cover all costs of
13 reclamation and was posted in accordance with a permit or other approval for a
14 mining operation in the United States, unless the forfeiture was by agreement with
15 the entity for whose benefit the bond was posted.

16 b. A felony conviction of the applicant, a related person, or an officer or director
17 of the applicant for a violation of a law for the protection of the natural environment
18 arising out of the operation of a mining site in the United States.

19 c. The bankruptcy or dissolution of the applicant or a related person that
20 resulted in the failure to reclaim a mining site in the United States in violation of a
21 state or federal law.

22 d. The permanent revocation of a mining permit or other mining approval
23 issued to the applicant or a related person if the permit or other mining approval was
24 revoked because of a failure to reclaim a mining site in the United States in violation
25 of state or federal law.

1 2. The applicant shall specify the name and address of the person involved in
2 and the date and location of each occurrence described in subd. 1.

3 (i) A description of any land contiguous to the proposed mining site that the
4 applicant owns or leases or has an option to purchase or lease.

5 (j) Any other pertinent information that the applicant believes may be useful
6 to the department.

7 **295.48 Mining plan. (1) GENERAL.** An applicant for a mining permit shall
8 submit as part of the application a mining plan that includes a description of the
9 proposed mining site and either a detailed map drawn to a scale approved by the
10 department or aerial photographs, if the photographs show the details to the
11 satisfaction of the department, prepared and certified by a competent engineer,
12 surveyor, or other person approved by the department that show all of the following:

13 (a) The boundaries of the area of land that will be affected.

14 (b) The drainage area above and below the area that will be affected.

15 (c) The location and names of all streams, roads, railroads, pipelines, and
16 utility lines on or within 1,000 feet of the mining site.

17 (d) The name or names of the owner or owners of the mining site.

18 (e) The name of the city, village, or town in which the mining site is located and
19 the name of any other city, village, or town that is within 3 miles of the mining site.

20 **(2) DESCRIPTIVE DATA.** The applicant shall provide descriptive data to
21 accompany the map or photographs under sub. (1), including all of the following:

22 (a) The federal natural resources conservation service land capabilities
23 classifications of the affected area.

24 (b) The elevation of the water table.

1 (c) Details of the nature, extent, and final configuration of the proposed
2 excavation and mining site, including the total estimated production of tailings,
3 waste rock, and other refuse and the location of their disposal.

4 (d) The nature and depth of the overburden.

5 **(3) OPERATING PROCEDURES.** The applicant shall also include in the mining plan
6 the details of the proposed operating procedures, including descriptions of all of the
7 following:

8 (a) The sequence of mining operations.

9 (b) The handling of overburden materials.

10 (c) The production, handling, and final disposition of tailings.

11 (d) The milling, concentrating, refining, and other processing of ferrous
12 minerals.

13 (e) The storage, loading, and transportation of the final product.

14 (f) Groundwater and surface water management techniques, including
15 provisions for erosion protection and drainage control, and a water management
16 plan showing water sources, flow paths and rates, storage volumes, and release
17 points.

18 (g) Plans for collection, treatment, and discharge of any water resulting from
19 the mining.

20 (h) Plans for protecting air quality under ch. 285.

21 (hm) A plan for monitoring environmental changes at the mining site.

22 (hr) An assessment of the risk of the occurrence of an accidental health or
23 environmental hazard in connection with the operation of the mine. The assessment
24 shall include, with specificity, a description of the assumptions that the applicant
25 used in making the risk assessment and the contingency measures that the applicant

1 proposes to take in the event of that an accidental health or environmental hazard
2 occurs.

3 (i) Measures for notifying the public and responsible governmental agencies of
4 potentially hazardous conditions, including the movement or accumulation of toxic
5 wastes in groundwater and surface water, soils, and vegetation, and other
6 consequences of the operation of importance to public health, safety, and welfare.

7 (j) All surface facilities associated with the mining site and any use of mining
8 waste in reclamation or the construction of any facility or structure.

9 (k) All geological and geotechnical investigations and drilling programs.

10 (L) A plan for completing and submitting a preblasting survey to the
11 department before any blasting is conducted.

12 (4) REQUIRED DEMONSTRATIONS. The applicant shall demonstrate in the mining
13 plan that the proposed mining will be consistent with the reclamation plan under s.
14 295.49 and that all of the following will apply, at a minimum:

15 (a) Handling and storage of all materials on the mining site will be done in an
16 environmentally sound manner.

17 (b) Buildings and other structures will be painted and maintained in a manner
18 that is visually compatible with the surrounding vegetational and earth conditions,
19 except that if a building or other structure cannot be painted and maintained in a
20 manner that is visually compatible or if painting and maintaining a building or other
21 structure in a manner that is visually compatible would cause safety concerns, the
22 building or structure will be made as visually inconspicuous as is practicable.

23 (c) Effective means will be taken to limit access to the mining site to minimize
24 exposure of the public to hazards.

1 (d) The use of mine mill chemicals and processing reagent wastes will be
2 governed by all of the following:

3 1. Reagents and mine mill chemicals will not be used in a manner that will
4 result in substantial harm to public safety or health or to the environment.

5 2. Reagents and mine mill chemicals that consist of or contain water soluble
6 salts or metals will be used in accordance with any applicable approval.

7 3. Reagents will not be used or stored at the mining site if they are not included
8 in the mining waste site feasibility study and plan of operation or in the mining plan,
9 except for reagents for laboratory, testing, research, or experimental purposes.

10 (e) Provisions will be made for back-up equipment in the event of the
11 breakdown of critical operation equipment.

12 (f) The design and operation specifications for mining site facilities include
13 features, which may include emergency power supplies, redundant equipment, or
14 temporary holding facilities, to deal with emergency conditions.

15 (g) Mining site facilities are designed to minimize disturbance to surface areas,
16 to the extent practicable.

17 (h) Where practicable, elevation differences in water-based transport systems
18 will be used for gravity flows to minimize pumping facilities and pressures.

19 (i) The following apply:

20 1. Systems for transporting tailings in slurry through pipelines that are not
21 buried are designed to provide for emergency tailings conveyance or storage in case
22 a pipeline breaks, plugs, freezes, or needs repairs and will be accessible for
23 inspection, emergency repair, and maintenance.

24 2. The location of emergency spill containment areas is consistent with the
25 prevention of substantial environmental pollution of surface waters.

1 3. In the event of a power failure, tailings pipelines will be self draining to a
2 tailings area or an emergency spill containment area or standby pumps and pipelines
3 or standby power is provided.

4 4. More than one emergency spill containment area is provided if necessary.

5 (j) If practicable, all liquid effluents from the mining site will be directed to a
6 common point, for treatment if necessary, before discharge to a natural watercourse.

7 (L) If sanitary wastes will be directed to a tailings area they will be
8 appropriately treated.

9 **295.49 Reclamation plan. (1)** An applicant for a mining permit shall submit
10 as part of the application a reclamation plan, designed to minimize adverse effects
11 to the environment to the extent practicable, that includes all of the following:

12 (a) A description of the manner, location, sequence, and timing of reclamation
13 of the mining site, including the mine, mining waste site, and sites for the disposal
14 of wastes that are not mining wastes.

15 (am) Prereclamation and postreclamation drawings.

16 (b) A map showing the specific reclamation proposal for each area of the mining
17 site.

18 (c) A description of ongoing reclamation procedures during mining.

19 (d) A description of proposed interim and final topography and slope
20 stabilization.

21 (e) A description of the proposed final land use and the relationship to
22 surrounding land and land use.

23 (f) Plans for the long-term care of the mining site, that include all of the
24 following:

1 1. Monitoring of the mine; mining waste sites; sites for the disposal of wastes
2 that are not mining wastes; groundwater quality; and surface water quality.

3 2. The names of persons legally and operationally responsible for long-term
4 care.

5 (g) Projected costs of reclamation, including the estimated cost of fulfilling the
6 reclamation plan.

7 (2) The applicant shall demonstrate in the reclamation plan that all of the
8 following will apply to the proposed reclamation, at a minimum:

9 (a) All toxic and hazardous wastes will be disposed of in conformance with
10 applicable state and federal laws.

11 (b) At the conclusion of mining activity, each tunnel, shaft, and other
12 underground opening will be sealed in a manner that will prevent seepage of water
13 in amounts that may be expected to create a safety, health, or environmental hazard,
14 unless the applicant demonstrates alternative uses for the tunnel, shaft, or other
15 underground opening that do not endanger public health or safety and that conform
16 to applicable environmental protection and mine safety laws and rules.

17 (c) Grading and stabilization of the excavation, sides, benches, and final slope
18 will conform with state and federal environmental and safety requirements and will
19 prevent erosion and environmental pollution to the extent practicable.

20 (d) Grading and stabilization of the mining waste site and sites for the disposal
21 of wastes that are not mining wastes will conform with state and federal
22 environmental and safety requirements.

23 (e) Merchantable by-products will be stabilized.

24 (f) Diversion and drainage of water from the mining site, including the mining
25 waste site and sites for the disposal of wastes that are not mining wastes, will be

1 adequate to prevent erosion and contamination of surface water and groundwater
2 to the extent practicable.

3 (g) Backfilling with tailings, waste rock, overburden, or borrow materials will
4 be conducted where the backfilling will not interfere with the mining and will not
5 cause an applicable groundwater quality standard to be exceeded.

6 (h) All underground and surface runoff waters from the mining site will be
7 managed, impounded, or treated in compliance with any approval that regulates
8 construction site erosion control or storm water management or discharge.

9 (i) All surface structures constructed as part of the mining activities will be
10 removed unless an alternate use is approved in the reclamation plan.

11 (j) Adequate measures will be taken to prevent significant subsidence, but if
12 subsidence does occur, the affected area will be reclaimed.

13 (k) All recoverable topsoil from surface areas disturbed by the mining will be
14 removed and stored in an environmentally acceptable manner for use in reclamation
15 or in the mitigation or minimization of adverse environmental impacts.

16 (L) All disturbed surface areas will be revegetated as soon as practicable after
17 the disturbance to stabilize slopes and minimize air pollution and water pollution,
18 with the objective of reestablishing a variety of plants and animals indigenous to the
19 area immediately prior to mining to the extent practicable.

20 (m) Plant species not indigenous to the area will be used for revegetation only
21 if necessary to provide rapid stabilization of slopes and prevention of erosion and only
22 with the approval of the department, but the objective under par. (L) will be
23 maintained.

24 (3) If it is physically or economically impracticable or environmentally or
25 socially undesirable for the reclamation process to return the area affected by mining

1 to its original state, the applicant shall provide, in the reclamation plan, the reasons
2 it would be impracticable or undesirable and a discussion of alternative conditions
3 and uses to which the affected area can be put.

4 **295.51 Mining waste site location criteria; feasibility study, and plan**
5 **of operation. (1) DEFINITIONS.** In this section:

6 (a) "Groundwater flow net" means a drawing showing equipotential contour
7 lines and the direction that groundwater will flow.

8 (c) "Regional" means relating to the area that may affect or be affected by a
9 proposed mining waste site, which ordinarily will not exceed the area within a radius
10 of 5 miles of the mining waste site.

11 (e) "Water budget" means an assessment of water inputs, outputs, and net
12 changes to a natural system or engineered facility over a fixed period.

13 (f) "Well nest" means 2 or more wells constructed to different depths and
14 installed within 10 feet of each other at the ground surface.

15 **(1e) HAZARDOUS MINING WASTE.** (a) Prior to the informational hearing under s.
16 295.57 (5) the department shall designate any mining wastes identified by the
17 department as hazardous under s. 291.05 (1).

18 (b) The disposal of any mining wastes that are identified by the department as
19 hazardous under s. 291.05 (1) in a mining waste site is subject to this subchapter, and
20 not to chs. NR 660 to 669, Wis. Adm. Code, except as necessary to comply with
21 applicable federal regulations adopted under the federal Resource Conservation and
22 Recovery Act, 42 USC 6901 to 6991m.

23 **(1m) LOCATION CRITERIA.** (a) Except as provided in par. (b), no person may locate
24 or operate a mining waste site, excluding the portion of a mining site from which

1 ferrous minerals are extracted and that is backfilled with mining waste, within 1,000
2 feet of any of the following:

3 1. The nearest edge of the right-of-way of any state trunk highway, as defined
4 in s. 340.01 (60).

5 2. The boundary of any state or national park.

6 3. The boundary of a scenic easement purchased by the department or the
7 department of transportation.

8 4. The boundary of a designated scenic or wild river.

9 5. A scenic overlook designated by the department by rule.

10 6. A hiking or biking trail designated by the department or the U.S. Congress.

11 (b) The prohibition in par. (a) does not apply if, regardless of season, the
12 proposed mining waste site is visually inconspicuous due to screening or being
13 visually absorbed due to natural objects, compatible natural plantings, earth berm,
14 or other appropriate means; or if, regardless of season, the proposed mining waste
15 site is screened so as to be as aesthetically pleasing and inconspicuous as is feasible.

16 (be) Except as provided in par. (bn), no person may locate or operate a mining
17 waste site, excluding the portion of a mining site from which ferrous minerals are
18 extracted and that is backfilled with mining waste, within 1,000 feet of a navigable
19 water that is a lake, pond, or flowage.

20 (bg) Except as provided in par. (bn), no person may locate or operate a mining
21 waste site, excluding the portion of a mining site from which ferrous minerals are
22 extracted and that is backfilled with mining waste, within 300 feet of a navigable
23 water that is a river or stream.

1 (bn) The prohibitions in pars. (be) and (bg) do not apply to an activity that is
2 associated with a mining waste site and that is approved by the department under
3 s. 295.60, 295.605, or 295.61.

4 (bq) No person may locate or operate a mining waste site, excluding the portion
5 of a mining site from which ferrous minerals are extracted and that is backfilled with
6 mining waste, within a floodplain.

7 (bt) No person may locate or operate a mining waste site, excluding the portion
8 of a mining site from which ferrous minerals are extracted and that is backfilled with
9 mining waste, in an area within the property owned by the mining operator and on
10 which the mining site is located if the area is closer than 200 feet to the outer
11 boundary of that property.

12 (c) No person may locate or operate a mining waste site, excluding the portion
13 of a mining site from which ferrous minerals are extracted and that is backfilled with
14 mining waste, within 1,200 feet of any public or private water supply well that
15 provides water for human consumption.

16 (d) No person may locate or operate a mining waste site, excluding the portion
17 of a mining site from which ferrous minerals are extracted and that is backfilled with
18 mining waste, within an area that contains mineral resources that are known at the
19 time the application for the mining permit is issued, are likely to be mined in the
20 future, and lie within 1,000 feet of the surface.

21 (1s) **BACKFILLED WASTE SITE.** For surface mining, the portion of a mining site
22 from which ferrous minerals are extracted and that is backfilled with mining waste
23 and any buildings, structures, roads, or drainage controls associated with that
24 portion of the mining site may be considered a single mining waste site.

1 (2) GENERAL. An applicant for a mining permit shall submit as part of the
2 application a mining waste site feasibility study and plan of operation that
3 demonstrates the suitability of the proposed mining waste site for the disposal of
4 mining wastes and that describes the operation of the mining waste site.

5 (3) WASTE CHARACTERIZATION AND ANALYSIS. For the purposes of this section, the
6 applicant shall perform waste characterization and analysis, to identify the
7 quantities, variability, and physical, radiological, and chemical properties of each
8 mining waste as necessary to assess the potential environmental impact of handling,
9 storage, and disposal. The applicant may include in the waste characterization and
10 analysis a review of the literature and results from similar existing facilities,
11 materials, or studies. For the purpose of the waste characterization and analysis,
12 the applicant shall conduct testing on representative samples of materials available,
13 on individual mining wastes from the mining process, and if the applicant proposes
14 mixed storage or disposal of individual mining wastes, on composite mining wastes.
15 If physical or chemical segregation of a mining waste is proposed, the applicant shall
16 test each individual waste resulting from the physical or chemical segregation. The
17 applicant shall complete all of the following components of the waste
18 characterization and analysis:

19 (a) Identification of all mining wastes that will be disposed of or stored in the
20 mining waste site, including classification of mining waste types, estimates of the
21 rates of generation and volumes of each type, and an explanation of the proposed
22 ultimate disposition of each type.

23 (b) Chemical, radiological, physical, and mineralogical analyses of each type
24 of mining waste.

25 (c) Analyses of the particle size of the mining wastes.

1 (d) Chemical and physical characteristics testing, including testing to
2 determine the leaching potential of the mining wastes and the composition of the
3 resulting leachate, using, at a minimum, the method in federal environmental
4 protection agency publication EPA 600/2-78-054, except that this testing is not
5 required if the applicant demonstrates, based on the analyses in pars. (b) and (c) or
6 on past experience, that there is not a probability for significant environmental
7 damage or a probability of an adverse impact on public health, safety, or welfare.

8 **(4) SITE SPECIFIC INFORMATION.** In addition to performing the mining waste
9 characterization and analysis under sub. (3), for the purposes of the mining waste
10 site feasibility study and plan of operation, an applicant shall conduct field and
11 laboratory investigations to determine physical, chemical, and biological
12 characteristics of the proposed mining waste site. The applicant shall do all of the
13 following:

14 (a) Perform field investigations to determine the specific topography, soil types,
15 and depth to bedrock and groundwater.

16 (b) Perform at least one soil boring, to bedrock or refusal, every 80 acres,
17 characterizing the major geomorphic features such as ridges and lowlands and
18 characterizing each major soil layer according to the unified soil classification
19 system.

20 (c) Prepare a boring log for each soil boring, including soil and rock descriptions,
21 method of drilling, method of sampling, sample depths, date of boring, and water
22 level measurements and dates, with elevations referring to United States geological
23 survey mean sea level datum.

1 (d) Collect soil samples to adequately determine the geology and ensure the
2 proper design and monitoring of the mining waste site, including doing all of the
3 following:

4 1. Collecting the soil samples at not greater than 5 foot depth intervals, unless
5 physical conditions such as soil homogeneity indicate that greater intervals are
6 adequate.

7 2. Collecting the soil samples using generally accepted techniques for sampling
8 undisturbed soils, where that is appropriate.

9 3. Classifying all soil samples according to the unified soil classification
10 system.

11 (e) Perform soil tests as necessary for classification and correlation purposes
12 and to develop necessary geotechnical design parameters for the mining waste site,
13 without compositing soil samples.

14 (f) Determine the hydraulic conductivity of the various soil strata, using in situ
15 hydraulic conductivity testing procedures as appropriate to confirm values
16 determined in the laboratory.

17 (g) Determine horizontal and vertical groundwater flow patterns in and around
18 the proposed mining waste site based on data obtained from groundwater
19 monitoring wells and piezometers constructed in conformity with ch. NR 141, Wis.
20 Adm. Code.

21 (h) Conduct a program to establish baseline water quality through monitoring
22 groundwater and surface water in the vicinity of the mine and the proposed mining
23 waste site on a monthly basis and establishing physical–chemical and biological
24 characteristics of the concentrations of substances in the water before mining begins
25 at the mining site. The applicant shall do all of the following:

1 1. Select physical-chemical parameters based on transport and
2 transformation mechanisms in the environment as well as other factors affecting the
3 mobility and toxicity of pollutants.

4 2. Select biological parameters based on the environmental characterizations
5 under sub. (5) (g), the degree of impact predicted, and the potentially affected
6 organism's sensitivity to contaminants.

7 3. Establish a final parameter list for groundwater and surface water based on
8 preliminary sampling and known information concerning the waters in the vicinity
9 of the mine and the mining waste site, consideration of applicable water quality
10 standards, and the geology and composition of the ferrous mineral deposit that will
11 be mined. At a minimum, in the program under this paragraph the applicant shall
12 collect water quality data for all of the following parameters:

13 a. Specific conductance.

14 b. Temperature.

15 c. Hydrogen ion concentration (pH).

16 d. Dissolved oxygen.

17 e. The major anions sulfate, chloride, and bicarbonate.

18 f. The major cations calcium, magnesium, potassium, and sodium.

19 g. Other total and dissolved metals, including aluminum, iron, and manganese,
20 that may be introduced by the mining activities.

21 h. General chemistry, including total alkalinity, total organic carbon, gross
22 alpha, gross beta, ammonia, nitrate, total dissolved solids, total hardness, and total
23 suspended solids.

24 (5) CONTENTS RELATED TO WASTE SITE FEASIBILITY. An applicant shall include all
25 of the following in the mining waste site feasibility study and plan of operation:

1 (a) A description of the mining waste site location, proposed acreage, proposed
2 mining waste site life and range of disposal capacity, and estimated types and
3 quantities of mining wastes to be contained.

4 (b) A description of the mining waste characterization and analysis conducted
5 under sub. (3), including a description of the test methods used in evaluating the
6 characteristics of the mining waste and the procedures and records for documenting
7 the chain of custody of the test samples.

8 (c) An existing site conditions plan sheet consisting of a topographic survey of
9 the area, with elevations tied to United States geological survey mean sea level
10 datum, illustrating the property boundaries, proposed boundaries of the mining
11 waste site, survey grid and north arrow, buildings, water supply wells, utility lines,
12 other man-made features, soil boring locations, observation well locations, and other
13 pertinent information.

14 (d) A series of geologic cross-sections illustrating existing topography; soil
15 borings; soil classification; soil properties; interpreted soil stratigraphy; bedrock;
16 well and boring locations and constructions; and stabilized water level readings.

17 (e) A water table map, using the existing site conditions plan under par. (c) as
18 a base, that is based on stabilized water level readings and, if seasonal changes in
19 groundwater levels are significant, maps those changes.

20 (f) If more than 2 well nests are constructed, groundwater flow nets to illustrate
21 horizontal and vertical flow, which may be illustrated on the geologic cross-sections
22 under par. (d), if appropriate.

23 (g) An environmental characterization that describes the structure and
24 functional relationships of ecosystems potentially affected by the proposed mining
25 waste site.

1 (h) A report on the water quality data collected under the baseline monitoring
2 program under sub. (4) (h) to establish baseline water quality.

3 (i) A land use map, using the existing site conditions plan under par. (c) as a
4 base, showing plant communities, wildlife habitat, places where rare and
5 endangered species have been sighted, archaeological or historic sites, buildings,
6 and areas of social importance.

7 (j) A table showing existing water quality of all potentially affected surface
8 waters, indicating important aquatic habitat.

9 (k) Local climatological data for seasonal precipitation, evaporation, air
10 temperature, and wind velocity and direction. The applicant may use an annual
11 record on the proposed mining waste site or adequate data to correlate the proposed
12 mining waste site conditions to an existing observation station as the basis for this
13 data.

14 (L) A discussion of regional conditions, supplemented with maps or
15 cross-sections where appropriate, addressing all of the following:

16 1. Topography.

17 2. Hydrology, including surface water drainage patterns and important
18 hydrologic features such as navigable waters, springs, drainage divides, and
19 wetlands.

20 3. Geology, including the nature and distribution of bedrock and
21 unconsolidated deposits.

22 4. Hydrogeology, including depth of groundwater, flow directions, recharge and
23 discharge areas, groundwater divides, aquifers, and the identification of the aquifers
24 used by all public and private wells within at least 1,200 feet of the proposed mining
25 waste site.

- 1 5. Groundwater and surface water quality and precipitation chemistry.
- 2 6. Climatology.
- 3 7. Identification of owners of land adjacent to the proposed mining waste site.
- 4 8. Zoning.
- 5 9. Existing land uses with particular emphasis on known recreational, historic,
- 6 archaeological, scientific, cultural, or scenic significance.
- 7 10. Existing or proposed access roads and weight restrictions on those roads.
- 8 11. Identification of aquatic and terrestrial ecosystems such as stream orders
- 9 and classifications.
- 10 (m) A discussion of alternative methods of disposing of mining waste materials,
- 11 including an analysis of the practicability of the reuse, sale, recovery, or processing
- 12 of the mining wastes for other purposes.
- 13 (n) An analysis of the results of the mining waste characterizations under sub.
- 14 (3), the site specific information under sub. (4) and this subsection, and the regional
- 15 information under par. (L) in relation to the approach for locating the mining waste
- 16 site and developing appropriate design, construction, operation, monitoring, and
- 17 long-term care requirements for each type of mining waste.
- 18 (o) A proposed mining waste site design, based on conclusions resulting from
- 19 analysis of the mining waste characterizations under sub. (3) and the site data under
- 20 sub. (4), that includes all of the following:
- 21 1. A map, using the existing site conditions plan under par. (c) as a base, that
- 22 shows proposed access, lateral extent of filling, and phases of mining waste site
- 23 development.
- 24 2. A series of cross-sections, using the geological cross-sections under par. (d)
- 25 as the base, that show existing topography, proposed base grades, and final grades.

1 3. Preliminary earthwork balance calculations, showing amounts of materials
2 expected to be moved on the mining waste site prior to the disposal of mining waste.

3 4. Proposed methods for leachate control.

4 5. Proposed methods of mining waste site development, phasing, access control,
5 and other special design features.

6 6. Expected material balances showing the quantities of each type of mining
7 waste identified in par. (a) showing the amounts generated, disposed of on site, and
8 taken off site, including all of the following:

9 a. The projected conditions existing at the end of a typical year of production.

10 b. The projected conditions existing at the end of operations.

11 c. The projected conditions existing at the end of reclamation.

12 7. A discussion of the reasoning behind the design of the major features of the
13 mining waste site, such as traffic routing, base grade and relationships to subsurface
14 conditions, anticipated waste types and characteristics, phases of development,
15 mining waste site monitoring, and similar design features.

16 8. A proposed monitoring program, based on potential variations in the quality
17 and quantity of mining waste and methods of processing, transport and disposal, and
18 on the variability of important environmental conditions, designed to monitor the
19 proposed mining waste site for compliance with all environmental standards that
20 are applicable under this subchapter.

21 9. The results of engineering and hydrologic modeling to assess mining waste
22 site performance relative to compliance with applicable groundwater quality
23 standards to a depth of not more than 1,000 feet into the Precambrian bedrock or to
24 the final depth of the mining excavation, whichever is greater, and to compliance
25 with applicable surface water quality standards, examining a period equal to the

1 proposed period in which the mining waste site is proposed to operate plus 100 years
2 after closure of the mining waste site. The applicant may also include information
3 from other mining operations and operations for the extraction of nonferrous
4 metallic minerals to substantiate that the proposed mining waste site design,
5 including associated contingency plans and monitoring and response plans, will
6 allow for the operation and closure of the mining waste site in a manner that will not
7 substantially adversely affect groundwater and surface water quality in accordance
8 with applicable standards.

9 10. If the applicant proposes to expand an existing mining waste site, an
10 evaluation of the existing mining waste site design and operation.

11 (p) Preliminary water budgets for the periods before construction, during
12 construction, and after closure of the mining waste site, each addressing
13 climatological situations depicting dry, wet, and average precipitation and
14 evaporation conditions, based on climatological records. In preparing the water
15 budget, the applicant shall consider precipitation, slurry water input and return,
16 evaporation, surface runoff, evapotranspiration, the moisture holding capacity of
17 soil and mining waste, and the velocities and volumes of groundwater flow. In the
18 water budget, the applicant shall describe the estimated amount and quality of
19 seepage and discharge to surface water and groundwater.

20 (q) An analysis of the impact of the mining waste site on aesthetics and how
21 any impact can be minimized or mitigated to the extent practicable.

22 (r) Data regarding the safety factors of tailings basin embankments,
23 considering the following, on a case-by-case basis:

24 1. Geology of the mining waste site including type and homogeneity of the
25 foundation.

2. Materials and methods to be used for embankment construction.

3. Physical and chemical characteristics of the mining waste as deposited and predicted changes through time.

4. The potential area to be affected in case of failure, considering land use and the surrounding environment.

5. Requirements of the mine safety and health administration of the federal department of labor.

(s) An economic analysis, including an engineer's cost estimate, for mining waste site closure and long-term care.

(t) Identification and analysis of alternatives to the design and location of any new proposed mining waste site and discussion of operation alternatives to the extent they have a significant impact on design and location alternatives.

(u) An appendix that includes all of the following:

1. Boring logs, soil tests, well construction data, and water level measurements.

2. A description of the methods and equations used in the analysis of the raw data.

3. References.

(6) CONTENTS RELATING TO OPERATION. An applicant for a mining permit shall submit as part of the mining waste site feasibility study and plan of operation provisions relating to operation of the mining waste site including all of the following:

(a) Engineering plans consisting of all of the following:

1. An existing site conditions plan sheet indicating site conditions before development to the extent not provided under sub. (5).

1 2. A base grade plan sheet indicating mining waste site base grades or the
2 appearance of the mining waste site if it were excavated in its entirety to the base
3 elevation, before installation of any engineering modifications and before disposal
4 of any mining wastes.

5 3. An engineering modifications plan sheet indicating the appearance of the
6 mining waste site after installation of engineering modifications.

7 4. A final site topography plan sheet indicating the appearance of the site at
8 closing including the details necessary to prepare the mining waste site for
9 reclamation and long-term care.

10 5. A series of phasing plan sheets showing initial mining waste site
11 preparations for each subsequent major phase or new area where substantial mining
12 waste site preparation must be performed, along with a list of construction items and
13 quantities projected to be necessary to prepare the phase indicated.

14 6. A site monitoring plan sheet showing the location of all devices for the
15 monitoring of leachate quality, leachate production, and groundwater quality and
16 levels in both the natural zone of saturation and that developed within the mining
17 waste site, along with a table indicating the parameters to be monitored for and the
18 frequency of monitoring before and during mining waste site development.

19 7. A long-term care plan sheet showing the completion of closure and
20 indicating those items anticipated to be performed during the period of long-term
21 care for the mining waste site, along with a discussion of the procedures to be used
22 for the inspection and maintenance of runoff control structures, settlement, erosion
23 damage, leachate control facilities, and leachate and groundwater monitoring and
24 a table listing those items and the anticipated schedule for monitoring and
25 maintenance.

1 8. If applicable, the following information on the plan sheets under subds. 1.
2 to 7.:

- 3 a. A survey grid with baselines and monuments to be used for field control.
- 4 b. Limits of filling for each major mining waste type or fill area.
- 5 c. All drainage patterns and surface water drainage control structures both
6 within the actual fill area and at the perimeter of the mining waste site, including
7 any berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets,
8 velocity breaks, sodding, erosion matting, vegetation, or other methods of erosion
9 control.
- 10 d. The method of placing mining waste within each phase.
- 11 e. Ground surface contours at the time represented by the drawing, indicating
12 spot elevations for key features.
- 13 f. Areas to be cleared, grubbed, and stripped of topsoil.
- 14 g. Borrow areas for liner materials, granular materials for filter beds, berms,
15 roadway construction, and cover materials.
- 16 h. All soil stockpiles, including soils to be used for cover, topsoil, liner materials,
17 filter bed materials, and other excavation.
- 18 i. Access roads and traffic flow patterns to and within the active fill area.
- 19 j. All temporary and permanent fencing.
- 20 k. The methods of screening such as berms, vegetation, or special fencing.
- 21 L. Leachate collection, control, and treatment systems, including any pipes,
22 manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and
23 liner splices.
- 24 m. Leachate and groundwater monitoring devices and systems.
- 25 n. Disposal areas for severe weather operations.

1 o. Support buildings, utilities, gates, and signs.

2 p. Handling areas for the segregation of various types of mining waste.

3 q. Construction notes and references to details.

4 r. On the appropriate plan sheet, the location of each cross-section under subd.
5 9., with the section labeled using the mining waste site grid system.

6 9. A series of mining waste site cross-sections, drawn perpendicular and
7 parallel to the mining waste site baseline at a maximum distance of 500 feet between
8 cross-sections and at points of important construction features, each cross-section
9 showing, where applicable: existing and proposed base and final grades; soil borings
10 and monitoring wells that the section passes through or is adjacent to; soil types,
11 bedrock, and water table; leachate control, collection, and monitoring systems;
12 quantity of mining waste and area filled by each major mining waste type; drainage
13 control structures; access roads and ramps on the mining waste site perimeter and
14 within the active fill area; the filling sequence or phases; and other appropriate site
15 features.

16 10. Drawings and typical sections for, as appropriate, drainage control
17 structures, tailings distribution systems, access roads, fencing, leachate control
18 systems and monitoring devices, buildings, signs, and other construction details.

19 (b) A plan for initial site preparations, including a discussion of the field
20 measurements, photographs to be taken, and sampling and testing procedures to be
21 used to verify that the in-field conditions encountered were the same as those
22 defined in the mining waste site feasibility study and plan of operation and to
23 document that the mining waste site was constructed according to the engineering
24 plans and specifications submitted for department approval.

1 (c) A description of typical daily operations, including a discussion of the
2 timetable for development; methods for determining mining waste types disposed of
3 or excluded; typical mining waste handling techniques; hours of operation; traffic
4 routing; drainage and erosion control; windy, wet, and cold weather operations; fire
5 protection equipment; methods for dust control; method of placing mining waste
6 materials; monitoring; closure of filled areas; leachate control methods; and critical
7 backup equipment.

8 (d) An analysis of the financial responsibility for closure and long-term care
9 from the time of closing of the mining waste site to termination of the obligation to
10 maintain proof of financial responsibility for long-term care.

11 (e) A description of procedures for backfilling all soil borings and monitoring
12 wells when they are abandoned.

13 (f) A contingency plan to prevent or minimize damage to human health or the
14 environment in the event of an accidental or emergency discharge or other condition
15 that does not comply with conditions of the mining permit or other applicable
16 standards. The applicant shall ensure that the plan does all of the following:

17 1. Follows the spill prevention, control, and countermeasures plan in
18 regulations promulgated under 33 USC 1321.

19 2. Indicates, for the monitoring programs required under sub. (5) (o) 8., the
20 levels of substances that if exceeded require the operator to activate the contingency
21 plan.

22 3. Includes a provision for more concentrated and frequent monitoring in the
23 area of any excessive measurement.

1 4. Describes possible accidental or emergency discharges or other unplanned
2 events and identifies the corresponding corrective action or alternative action to be
3 implemented should the criteria for action be exceeded.

4 5. Specifies the action to be taken if an analysis of groundwater samples
5 requires a response.

6 (g) A list of the groundwater and surface water quality parameters for which
7 the applicant will monitor under s. 295.643 and a description of the methods for
8 groundwater and surface water sample collection, preservation, and analysis that
9 will be used.

10 (7) REQUIRED DEMONSTRATIONS. Through the mining waste site feasibility study
11 and plan of operation, the applicant shall demonstrate that all of the following apply
12 or will apply with respect to the operation of the mining waste site, excluding the area
13 from which ferrous minerals will be extracted and that is backfilled with mining
14 waste:

15 (a) No mining waste will be deposited in such a way that the mining waste or
16 leachate from the mining waste will result in a violation of any applicable surface
17 water quality criteria or standards, applicable wetland water quality standards, or
18 applicable groundwater quality standards.

19 (b) Surface water drainage will be diverted away from and off the active fill
20 area.

21 (c) Access to the mining waste site will be restricted through the use of fencing,
22 natural barriers, or other methods approved by the department.

23 (d) The entire perimeter of the mining waste site will be made accessible for
24 inspection and for earth moving equipment required for emergency maintenance.

1 (e) Any area to be used for the disposal of mining waste and any borrow areas
2 will first be stripped of all topsoil to ensure that adequate amounts are available for
3 reclamation and closure activities.

4 (f) Effective means will be taken to control dust resulting from the mining
5 waste site.

6 (g) Provisions will be made for back-up equipment in the event of the
7 breakdown of critical operating equipment.

8 (h) The design and operation specifications for mining waste site facilities
9 include contingency measures, which may include emergency power supplies,
10 redundant equipment, or temporary holding facilities, to deal with emergency
11 conditions.

12 (hm) Any mining waste site designed with a liner or situated in soils with
13 sufficiently low permeability to either partially or completely contain leachate is
14 designed with a leachate management system that can effectively remove leachate,
15 prevent surface seepage, and promote adequate settlement to permit final
16 reclamation.

17 (i) All surface water drainage ditches, culverts, and other drainage control
18 structures are designed for a rainfall event measured in terms of the depth of the
19 rainfall occurring within a 24-hour period and having an expected recurrence
20 interval of once in 100 years.

21 (j) The final slopes of the completed mining waste site will be no less than 2
22 percent and no greater than 50 percent, unless the mining waste site is specifically
23 designed for a final use compatible with other slopes.

1 (k) The final cover design for the mining waste site is based on the results of
2 the mining waste characterization and engineering needs identified in studying the
3 mining waste site feasibility.

4 (L) Provisions are made for collection and treatment of leachate for all areas
5 designed to contain leachate.

6 (m) The mining waste site is located and designed, and will be constructed and
7 operated, so that any liner system or naturally occurring soil barrier is compatible
8 with all mining waste that is disposed of or stored in the mining waste site.

9 (n) For any dam, sufficient freeboard, measured from the inside of the top of
10 the dam, to contain a rainfall event measured in terms of the depth of the rainfall
11 occurring within a 24-hour period and having an expected recurrence interval of
12 once in 100 years and to prevent overtopping by waves during such a rainfall event
13 or a minimum of 2 feet of freeboard, whichever is greater, will be provided.

14 (o) Drainage or filter bed material has been selected and designed to promote
15 drainage, reduce the potential for piping, and be stable under leaching conditions.

16 (p) Material used in earth embankments, drainage, or filter beds, will be free
17 of vegetation, organic soils, frozen soils, and other extraneous matter that could
18 affect the compactibility, density, permeability, or shear strength of the finished
19 embankment.

20 (q) Embankment materials and drainage or filter bed materials will be
21 compacted to 90 percent of the maximum dry density as determined by the standard
22 proctor compaction test, ASTM D698, or to a greater density as necessitated by the
23 embankment height, and the materials will be compacted in appropriate layers as
24 determined through the slope stability analysis, except that compaction and
25 crushing of waste rock for use outside an earth core is not required.

1 (r) Emergency spill containment areas will be provided near the tailings
2 pipeline in case of power or pipeline failure.

3 (s) Tailings pipelines will be self-draining to the tailings area or to an
4 emergency spill containment area.

5 (t) The mining waste site is located in the same watershed as the surface
6 facilities for the mining unless it is not practicable to locate the mining waste site in
7 the same watershed as the surface facilities for the mining, as determined on a site
8 specific basis.

9 (u) The disposal of the mining waste will minimize the discharge of
10 environmental pollutants to groundwater to the extent practicable.

11 (w) Tailings pipelines are as short as practicable.

12 (x) Upstream rainfall catchment areas are minimized.

13 (y) The outside of the top of any dam is higher than the inside of the top of the
14 dam so that runoff from the top is forced to the inside of the dam.

15 (z) The mining waste site design includes staged reclamation, if practicable.

16 **(8) LIMITATION ON REGULATION OF CERTAIN MINING WASTE.** The department may
17 not regulate the use of mining waste in reclamation or the construction of any facility
18 or structure except through the department's review of the mining plan and
19 reclamation plan and the approval of the application for the mining permit.

20 **(9) APPLICABILITY OF OTHER LAWS.** Subchapters I to V and VII of ch. 289 and rules
21 promulgated under those subchapters do not apply to a mining waste site, to the
22 disposal of mining waste in a mining waste site, or to mining wastes used in the
23 reclamation or construction of facilities and structures on the mining site.

24 **295.53 Environmental impact statement. (1) CONSULTANTS.** The
25 department may enter into contracts for environmental consultant services under

1 s. 23.41 to assist in the preparation of an environmental impact statement or to
2 provide assistance to applicants.

3 (2) NOTICE. After the department receives an application for a mining permit,
4 it shall notify the public and affected agencies that an environmental impact
5 statement will be prepared for the proposed mine and that the process of identifying
6 major issues under s. NR 150.21 (3), Wis. Adm. Code, is beginning.

7 (3) ENVIRONMENTAL IMPACT REPORT. (a) An applicant shall prepare an
8 environmental impact report for the mining project. In the environmental impact
9 report, the applicant shall provide a description of the proposed mining project, the
10 present environmental conditions in the area and the anticipated environmental
11 impacts of the proposed mining project, the present socioeconomic conditions in the
12 area and the anticipated socioeconomic impacts of the proposed mining project,
13 details of any wetlands compensation program under s. 295.60 (8), any measures for
14 navigable waters under s. 295.605 (4), any proposed changes to the forest
15 designations specified in sub. (4) (c), and the alternatives to the proposed mining
16 project. As the applicant provides more information or makes modifications to the
17 proposed mining project, the department may revise the requirements it specified
18 under s. 295.465 (2) to ensure the potential environmental effects can be identified
19 in the department's environmental impact statement.

20 (b) The department shall assist the applicant in meeting the deadlines for
21 ultimate submission and review of those analyses consistent with this subchapter.
22 If a particular scientific analysis is not completed as of the date the environmental
23 impact report is required to be submitted, the applicant shall identify in the
24 environmental impact report the scope of the analysis and anticipated date that it
25 will be submitted.

1 (c) 1. The applicant shall submit the environmental impact report with the
2 application for the mining permit.

3 3. Upon receipt of the environmental impact report, the department shall
4 review the environmental impact report and, if the department finds that the
5 environmental impact report does not contain information reasonably necessary for
6 the department to evaluate the proposed mining project and its environmental
7 effects, the department may request additional information from the applicant.

8 (d) The department shall accept original data from an environmental impact
9 report for use in the environmental impact statement and need not verify all original
10 data provided by the applicant to accept the data as accurate. The department shall
11 use original data from an environmental impact report in the environmental impact
12 statement if the data contains the information identified in sub. (1) (e) 1. and any of
13 the following conditions is met:

14 1. The department, its consultant, or a cooperating state or federal agency
15 collects sufficient data to perform a limited statistical comparison with data from the
16 environmental impact report that demonstrates that the data sets are statistically
17 similar within a reasonable confidence limit.

18 2. An expert who is employed by, or is a consultant to, the department or is
19 employed by, or is a consultant to, a cooperating state or federal agency determines
20 that the data is within the range of expected results.

21 3. The department, its consultant or a cooperating state or federal agency
22 determines that the methodology used in the environmental impact report is
23 scientifically and technically adequate for the tests being performed.

24 (4) PROCEDURE FOR ENVIRONMENTAL IMPACT STATEMENT. (a) The department shall
25 prepare an environmental impact statement for every application for a mining

1 permit. In preparing the environmental impact statement, the department shall
2 comply with s. 1.11 (2) and s. NR 150.22 (2), Wis. Adm. Code.

3 (b) The department shall include in the environmental impact statement a
4 description of the significant long-term and short-term impacts, including impacts
5 after the mining has ended, on all of the following:

- 6 1. Tourism.
- 7 2. Employment.
- 8 3. Schools and medical care facilities.
- 9 4. Private and public social services.
- 10 5. The tax base.
- 11 6. The local economy.

12 (c) The department and other state agencies shall address the application for
13 a mining permit, for any approval, and for any action relating to the mining project
14 involving other state agencies in one comprehensive analysis in the environmental
15 impact statement prepared by the department, including any environmental
16 analysis required by the department with regard to any of the following:

17 1. The withdrawal of land entered as county forest land under s. 28.11 and any
18 modification of, or amendment to, a county forest land use plan necessitated by the
19 withdrawal of the land.

20 2. The withdrawal of land entered as forest cropland under s. 77.10.

21 3. The withdrawal of land designated as managed forest land under subch. VI
22 of ch. 77 and any modification of, or amendment to, a managed forest land
23 management plan necessitated by the withdrawal of the land.

24 4. The transfer of land for which amounts were awarded by the department,
25 including under s. 23.09 (17m), 26.38, 28.11 (5r), or 77.895, to fund the acquisition

1 of, or to fund activities conducted on, forest land and any modification of, or
2 amendment to, a forest stewardship management plan or other plan necessitated by
3 the transfer of the land.

4 (d) The public notice, informational hearing, and comment provisions in s.
5 295.57, the provision concerning the effective date of approvals in s. 295.58 (6), and
6 the provisions for review in s. 295.77 apply to an environmental impact statement
7 prepared under this subsection. If the department revises and redistributes an
8 environmental impact statement or portion of an environmental impact statement
9 prepared under this section, the department shall distribute the environmental
10 impact statement or portion of the environmental impact statement as provided in
11 s. 295.57, but the period for public comment is 30 days, rather than 45 days.

12 (e) The department shall conduct its environmental review process jointly with
13 any federal or local agency that consents to a joint environmental review process.
14 The department may adopt any environmental analysis prepared by another state
15 agency or by a federal or local agency. The department may enter into a written
16 agreement with any of those agencies that have a major responsibility related to or
17 that are significantly affected by the proposed mining. In the written agreement, the
18 parties shall define the responsibility of each agency in the development of a single
19 environmental impact statement on the proposed mining and outline the procedures
20 to be used in the regulatory process. The department shall be the lead agency for any
21 environmental review process involving other state agencies. To the extent that any
22 federal or local agency's environmental review process conflicts with the provisions
23 of this section or s. 295.57, then the department shall follow the provisions of this
24 section and s. 295.57 and may only coordinate its environmental review to the extent
25 consistent with the provisions of this section and s. 295.57. The department shall

1 comment on any federal agency's environmental assessment or environmental
2 impact statement associated with a mining project in accordance with s. NR 150.30,
3 Wis. Adm. Code.

4 (5) RELATIONSHIP TO OTHER LAWS. This section and s. 295.57 govern the
5 department's obligations under ss. 1.11 and 1.12 with respect to a mining project.
6 Sections 23.11 (5) and 23.40 and ss. NR 2.085, 2.09, and 2.157, Wis. Adm. Code, do
7 not apply with respect to a mining project. The rest of ch. NR 2, Wis. Adm. Code, only
8 applies with respect to a mining project to the extent that it does not conflict with this
9 section and s. 295.57. Sections NR 150.24 and 150.25, Wis. Adm. Code, do not apply
10 with respect to a mining project. The rest of ch. 150, Wis. Adm. Code, only applies
11 with respect to a mining project to the extent that it does not conflict with this section
12 and s. 295.57.

13 **295.56 Exemptions.** (1) The department may grant an exemption, as
14 provided in this section, from any of the requirements of this subchapter applicable
15 to any of the following:

16 (a) A mining permit application, including the mining plan, reclamation plan,
17 and mining waste site feasibility study and plan of operation.

18 (b) A mining permit.

19 (c) Any other approval.

20 (2) (a) An applicant shall submit a request for an exemption in writing and
21 shall describe the grounds for the exemption and provide documentation identifying
22 the conditions requiring the exemption, the reasons for the exemption, and the
23 reasonableness of the exemption.

24 (b) An applicant may obtain an exemption only if the applicant submits the
25 request no later than the 180th day after the application for the mining permit is

1 administratively complete under s. 295.57 (2), unless the condition that is the basis
2 for the requested exemption is not known to the applicant before that day, in which
3 case the deadline is extended to the 20th day before the deadline under s. 295.57 (7)
4 (a).

5 (c) The department shall issue a decision on a request for an exemption no later
6 than the 15th day after the day on which it received the request under par. (a).
7 Subject to par. (b) and except as provided in par. (d), the department shall grant the
8 exemption if it is consistent with the purposes of this subchapter and will not violate
9 any applicable environmental law outside of this subchapter and if one of the
10 following applies:

11 1. The exemption will not result in significant adverse environmental impacts.

12 2. The exemption will result in significant adverse environmental impacts, but
13 the applicant will offset those impacts through compensation or mitigation, as
14 provided in s. 295.60; through the measures provided in s. 295.605, or through the
15 conservation measures provided in s. 295.61.

16 (d) 1. The department shall deny a request for an exemption if granting the
17 exemption would violate federal law.

18 2. If federal law imposes a standard for an exemption that differs from the
19 standard in par. (c) and that cannot be modified by state law, and if that standard has
20 been approved by the federal government for use by the state through a delegation
21 agreement, federally approved state implementation plan, or other program
22 approval, then the department shall determine whether to grant the request for the
23 exemption using the federal standard.

24 **295.57 Application procedure. (1) SUBMISSION.** (a) An applicant shall
25 submit the application for a mining permit as provided in s. 295.47.

1 (b) The department and the state geologist shall protect as confidential any
2 information, other than effluent data, contained in an application for a mining
3 permit, upon a showing that the information is entitled to protection as a trade
4 secret, as defined in s. 134.90 (1) (c), and any information relating to production or
5 sales figures or to processes or production unique to the applicant or that would tend
6 to adversely affect the competitive position of the applicant if made public.

7 **(2) DETERMINATION OF ADMINISTRATIVE COMPLETENESS.** (a) An application for a
8 mining permit is administratively complete on the 30th day after the department
9 receives the application, unless, before that day, the department provides the
10 applicant with written notification that the application is not administratively
11 complete. The department may determine that an application is not
12 administratively complete only if the applicant does not submit one of the following:

13 2. A mining plan that contains the types of information specified in s. 295.48
14 (1), (2), (3), and (4).

15 3. A reclamation plan that contains the types of information specified in s.
16 295.49 (1), (2), and (3).

17 4. A mining waste site feasibility study and plan of operation that contains the
18 types of information specified in s. 295.51 (5), (6), and (7).

19 5. An environmental impact report.

20 6. The evidence required under s. 295.47 (2) (g).

21 (b) In making the determination under par. (a), the department may not
22 consider the quality of the information provided.

23 (c) In a notice provided under par. (a), the department shall specify what is
24 missing from the application.

1 (d) The running of the 30-day period under par. (a) is tolled from the day on
2 which the department provides notification, in compliance with par. (a), that an
3 application is not administratively complete until the day on which the applicant
4 submits the missing or revised mining plan, reclamation plan, mining waste site
5 feasibility study and plan of operation, environmental impact report, or evidence
6 required under s. 295.47 (2) (g). The department shall notify the applicant when it
7 receives the missing or revised mining plan, reclamation plan, waste site feasibility
8 study and plan of operation, environmental impact report, or evidence required
9 under s. 295.47 (2) (g). The application is administratively complete on the day on
10 which the department provides the notification to the applicant or on the expiration
11 of the remainder of the 30-day period, whichever is sooner.

12 (e) The department may request additional information needed to process a
13 mining application from the applicant after the application is administratively
14 complete, but the department may not delay the determination of administrative
15 completeness based on a request for additional information.

16 (3) NOTICE OF ADDITIONAL APPROVALS. Within 30 days after the mining permit
17 is administratively complete under sub. (2), the department shall notify the
18 applicant in writing of any approval required for the construction or operation of the
19 mining site that was not previously identified by the department.

20 (3m) RECEIPT OF CERTAIN APPROVALS. If a storm water discharge permit under
21 s. 283.33 (1) (a) or a water quality certification under rules promulgated under subch.
22 II of ch. 281 to implement 33 USC 1341 (a) is needed for a mining operation, the
23 person applying for the mining permit may apply for and be issued the permit or
24 certification.

1 **(4) PUBLIC INFORMATION AND NOTICE.** (a) The department shall make available
2 for review in the city, village, or town in which the proposed mining site is located,
3 information concerning the proposed mining, including all of the following:

4 1. The application for the mining permit, including the mining plan,
5 reclamation plan, and mining waste site feasibility study and plan of operation.

6 2. Any of the following relating to an approval other than the mining permit:

7 a. The application.

8 b. A draft approval.

9 c. Information or summaries relating to the approval.

10 3. The environmental impact statement, environmental impact report, and any
11 additional supporting information used in the department's evaluation of the
12 proposed mining.

13 4. The department's analyses and preliminary determinations relating to any
14 approval.

15 (b) The department shall distribute a notice that describes the availability of
16 the information under par. (a); the opportunity for written public comment, including
17 an invitation for the submission of written comments by any person within 45 days
18 after the notice is published; and the date, time, and location of the public
19 informational hearing and that includes any additional information that a law
20 concerning any approval requires to be provided. The department shall publish the
21 notice as a Class I notice under ch. 985. The department shall also send the notice
22 to all of the following:

23 1. The clerk of any city, village, town, or county with zoning jurisdiction over
24 the proposed mining site.

1 2. The clerk of any city, village, town, or county within whose boundaries any
2 portion of the proposed mining site is located.

3 3. The clerk of any city, village, or town, contiguous to any city, village, or town
4 within whose boundaries any portion of the proposed mining site is located.

5 4. The main public library of each city, village, town, or county with zoning
6 jurisdiction over the proposed mining site or within whose boundaries any portion
7 of the proposed mining site is located.

8 5. Any regional planning commission for the area within which the proposed
9 mining site lies.

10 6. Any state agency that the department knows is required to grant a permit
11 or other authorization necessary for the construction or operation of the proposed
12 mining project.

13 7. The federal environmental protection agency, U.S. Army Corps of Engineers,
14 and states potentially affected by the proposed discharge if a water discharge permit
15 under ch. 283 or a water quality certification for a federal wetland under s. 295.60
16 (4) is to be considered at the public informational hearing.

17 8. The federal environmental protection agency and appropriate agencies in
18 other states that may be affected if an air pollution control permit under ch. 285 is
19 to be considered at the public informational hearing.

20 9. If a water withdrawal permit under s. 295.61 for a withdrawal of surface
21 water is to be considered at the public informational hearing, the persons specified
22 in s. 30.18 (4) (a).

23 10. If an individual permit under s. 30.12 for a structure through which water
24 transferred from the Great Lakes basin would be returned to the source watershed
25 through a stream tributary to one of the Great Lakes is to be considered at the public

1 informational hearing, the governing body of each city, village, and town through
2 which the stream flows or that is adjacent to the stream downstream from the point
3 at which the water would enter the stream.

4 11. Any person upon request.

5 12. The applicant.

6 13. Any other person to whom the department is required to give notice of any
7 proposed determination, application, or hearing concerning an approval under the
8 laws relating to the issuance of any approval or under s. 1.11.

9 (c) The department shall coordinate the public comment period for the mining
10 permit with the public comment period for any other approval for the mining
11 operation, except that if an application for an approval is filed too late to allow public
12 comment within the public comment period for the mining permit, the department
13 shall issue separate notice, as described in par. (b), for the approval after the
14 application is filed.

15 (5) INFORMATIONAL HEARING. The department shall hold a public informational
16 hearing before issuing or denying a mining permit and not less than 30 days after
17 publishing the notice under sub. (4) (b). The department shall hold the public
18 informational hearing in the county where the majority of the proposed mining site
19 is located. The department shall hold a single public informational hearing covering
20 the mining permit, all other approvals, and the environmental impact statement,
21 except that if an application for an approval is filed too late to allow the application
22 to be considered at the public informational hearing for the mining permit, the
23 department shall hold a separate public informational hearing on the approval in the
24 county where the proposed site is located not less than 30 days after publishing the

1 notice under sub. (4) (b) for the approval. The public informational hearing under
2 this subsection is not a contested case hearing under ch. 227.

3 (6) SUMMARY. After considering the comments received under subs. (4) and (5)
4 and before acting on the application for the mining permit, the department shall
5 prepare a summary of the comments and the department's response to the
6 comments.

7 (7) DEADLINE FOR ACTING ON MINING PERMIT APPLICATION. (a) No more than 360
8 days after the day on which the application for a mining permit is administratively
9 complete under sub. (2), the department shall approve the application, and issue a
10 mining permit, or deny the application, in accordance with s. 295.58.

11 (b) If the department does not comply with par. (a), the application for the
12 mining permit is automatically granted and the department shall issue a mining
13 permit. The applicant may engage in mining based on the automatic approval,
14 notwithstanding any delay by the department in issuing the mining permit.

15 (8) DEADLINE FOR ACTING ON OTHER APPROVALS. (a) Except as provided in par.
16 (c), if an applicant files an application for an approval other than a mining permit
17 no later than 60 days after the day on which the application for the mining permit
18 is administratively complete under sub. (2), the department shall approve the
19 application, and issue the approval, or deny the application no more than 360 days
20 after the day on which the application for the mining permit is administratively
21 complete under sub. (2).

22 (b) Except as provided in par. (c) if an applicant files an application for an
23 approval other than a mining permit more than 60 days after the day on which the
24 application for the mining permit is administratively complete under sub. (2), the
25 deadline for acting on the application is extended beyond the deadline under par. (a)

1 by the number of days beyond the 60th day after the day on which the application
2 for the mining permit is administratively complete that the applicant files the
3 application for the approval.

4 (c) Paragraphs (a) and (b) do not apply to the application for an air pollution
5 control permit under s. 285.62.

6 (d) The department shall incorporate an approval other than a mining permit
7 into a single document with the mining permit, unless the application for the
8 approval was filed more than 60 days after the day on which the application for the
9 mining permit is administratively complete under sub. (2).

10 **(8m)** SUBMISSION OF TECHNICAL REVIEW TO GREAT LAKES REGIONAL BODY. If an
11 applicant files an application under s. 281.346 for an approval for a withdrawal of
12 surface water or groundwater that is subject to regional review or council approval,
13 the department shall provide its technical review, as defined in s. 281.346 (1) (u), to
14 the regional body, as defined in s. 281.346 (1) (q), no later than 90 days after the
15 applicant files the application for the approval.

16 **(9)** APPLICABLE PROCEDURE. The provisions of this section and ss. 295.58 (5) and
17 (6) and 295.77 concerning public notice, comment, and hearing; issuance of
18 department decisions; effective date of department decisions; and review of
19 department decisions; and the duration of approvals apply to any approval,
20 notwithstanding any provisions related to those matters in s. 44.40 or 169.25, subch.
21 I or VI of ch. 77, ch. 23, 29, 30, 169, 281, 283, 285, 289, or 291, or rules promulgated
22 under those provisions, except as provided in s. 281.343 (7r) and except that if a
23 withdrawal of surface water or groundwater is subject to regional review or council
24 approval under s. 281.346, the applicable provisions related to regional review or
25 council approval apply.

1 **295.58 Mining; department grant or denial of permit. (1) CRITERIA FOR**
2 APPROVAL. (a) Except as provided in sub. (2) and except with respect to property
3 specified in s. 41.41 (11), the department shall issue a mining permit if it finds all of
4 the following:

5 1. That the mining plan and reclamation plan are reasonably certain to result
6 in reclamation of the mining site consistent with this subchapter.

7 2. That the waste site feasibility study and plan of operation complies with s.
8 295.51.

9 3. That the applicant has committed to conducting the proposed mining in
10 compliance with the mining permit and any other approvals issued for the mining.

11 4. That the proposed mining is not likely to result in substantial adverse
12 impacts to public health, safety, or welfare.

13 5. That the proposed mining will result in a net positive economic impact in the
14 area reasonably expected to be most impacted by the mining.

15 6. That the applicant has applied for all necessary zoning approvals applicable
16 to the proposed mining.

17 (b) The department shall approve or deny an application for a mining permit
18 in writing and shall include the reasons for its decision with clarity and in detail.
19 The department may modify the applicant's proposed mining plan, reclamation plan,
20 or mining waste site feasibility study and plan of operation in order to meet the
21 requirements of this subchapter, and, as modified, approve the application. The
22 approval of the application for a mining permit constitutes the approval of the
23 mining plan, reclamation plan, and waste site feasibility study and plan of operation.
24 In its decision on the application for a mining permit, the department shall include

1 a final decision on compliance with s. 1.11 and the requirements of s. 295.53,
2 discussing all of the following:

3 1. Whether the department has considered the environmental impact
4 statement and comments received on it.

5 2. Whether the department has complied with ss. 1.11 and 295.53.

6 3. Whether, consistent with social, economic, and other essential
7 considerations, the department has adopted all practicable means within its
8 authority to avoid or minimize any harm to the environment and, if not, why not.

9 (2) CRITERIA FOR DENIAL. The department shall deny the mining permit if it
10 finds any of the following:

11 (a) That the site is unsuitable for mining.

12 (b) That the proposed mining may reasonably be expected to create any of the
13 following situations:

14 1. Hazards resulting in irreparable, substantial physical damage to any of the
15 following that cannot be prevented under the requirements of this subchapter,
16 avoided to the extent practicable by removal from the area of hazard, or mitigated
17 by purchase or by obtaining the consent of the owner:

18 a. A dwelling house.

19 b. A public building.

20 c. A school.

21 d. A church.

22 e. A cemetery.

23 f. A commercial or institutional building.

24 g. A public road.

1 2. Irreparable substantial environmental damage to lake or stream bodies
2 despite adherence to the requirements of this subchapter. This subdivision does not
3 apply to an activity that the department has authorized under statute, except that
4 the destruction or filling in of a lake bed may not be authorized unless it is authorized
5 under s. 295.60, 295.605, or 295.61.

6 3. Landslides or substantial deposition from the proposed mining operation in
7 stream or lake beds which cannot feasibly be prevented and which have not been
8 authorized under s. 295.60 or 295.605.

9 (c) That the applicant has violated, and continues to fail to comply with, this
10 subchapter.

11 (d) Subject to sub. (3), that the applicant, principal shareholder of the
12 applicant, or a related person has within 10 years before the application is submitted
13 forfeited a mining reclamation bond that was posted in accordance with a permit or
14 other authorization for a mining operation in the United States, unless the forfeiture
15 was by agreement with the entity for whose benefit the bond was posted and the
16 amount of the bond was sufficient to cover all costs of reclamation.

17 (e) Subject to sub. (3), that the applicant, a related person, or an officer or
18 director of the applicant has, within 10 years before the application is submitted,
19 been convicted of more than one felony for violations of laws for the protection of the
20 natural environment arising out of the operation of a mining site in the United
21 States, unless one of the following applies:

22 1. The person convicted has been pardoned for all of the felonies.

23 2. The person convicted is a related person or an officer or director of the
24 applicant with whom the applicant terminates its relationship.

1 3. The applicant included in its permit application under s. 295.47 a plan to
2 prevent the occurrence in this state of events similar to the events that directly
3 resulted in the convictions.

4 (f) Subject to sub. (3), that the applicant or a related person has, within 10 years
5 before the application is submitted, declared bankruptcy or undergone dissolution
6 that resulted in the failure to reclaim a mining site in the United States in violation
7 of a state or federal law and that failure has not been remedied and is not being
8 remedied.

9 (g) Subject to sub. (3), that, within 10 years before the application is submitted,
10 a mining permit or other authorization for mining issued to the applicant or a related
11 person was permanently revoked because of a failure to reclaim a mining site in the
12 United States in violation of state or federal law and that failure has not been and
13 is not being remedied.

14 **(3) EXCEPTION FROM DENIAL CRITERIA.** The department may not deny a mining
15 permit under sub. (2) (d) to (g) if the person subject to the convictions, forfeiture,
16 permanent revocation, bankruptcy, or dissolution is a related person but the
17 applicant shows that the person was not the parent corporation of the applicant, a
18 person that holds more than a 30 percent ownership in the applicant, or a subsidiary
19 or affiliate of the applicant in which the applicant holds more than a 30 percent
20 interest at the time of the convictions, forfeiture, permanent revocation, bankruptcy,
21 or dissolution.

22 **(4) STATEMENT.** The department shall send a statement as to whether the
23 applicant has satisfied the requirements of this subchapter to the applicant and to
24 the other persons specified in s. 295.57 (4) (b) 1. to 9.

1 (5) DURATION OF APPROVALS. (a) A mining permit is valid for the life of the
2 mining project, subject to the enforcement provisions under s. 295.79.

3 (b) An approval under s. 295.60 or 295.61 remains valid for the life of the
4 mining, subject to the enforcement provisions under s. 295.79.

5 (c) An approval issued for a mining project under ch. 23, 29, 30, 169, 281, 283,
6 285, 289, or 291, except for a permit under ch. 283 or 285 that is subject to a federal
7 requirement limiting its duration, remains valid for the life of the mining project,
8 subject to the enforcement provisions applicable to the approval.

9 (6) EFFECTIVE DATE OF APPROVALS. A mining permit and any other approval is
10 issued upon mailing and is final and effective upon issuance.

11 (7) MERCHANTABLE BY-PRODUCTS. In a mining permit, the department shall
12 require the operator to treat merchantable by-products as refuse if after 3 years from
13 the time the merchantable by-products result from or are displaced by mining the
14 material has not been transported off the mining site, unless removal is continuing
15 at a rate of more than 12,000 cubic yards per year.

16 (8) GENERAL CONTRACTOR OR AFFILIATE. No operator may engage a general
17 contractor or affiliate to operate a mining site if the general contractor or affiliate has
18 been convicted of more than one felony for violation of a law for the protection of the
19 natural environment arising out of the operation of a mining site in the United States
20 within 10 years before the issuance of the operator's mining permit, unless the
21 general contractor or affiliate receives the department's approval of a plan to prevent
22 the occurrence in this state of events similar to the events that directly resulted in
23 the convictions.

24 **295.59 Bonds and other security. (1) SECURITY FOR RECLAMATION.** (a) Upon
25 notification that an application for a mining permit has been approved by the

1 department but before beginning mining, the operator shall furnish one of the
2 following to the department:

3 1. A bond, furnished by a surety company licensed to do business in this state,
4 conditioned on faithful performance of all of the requirements of this subchapter and
5 all rules adopted by the department under this subchapter.

6 2. Cash.

7 3. Certificates of deposit.

8 4. Government securities.

9 (b) The department shall pay to the operator interest received on certificates
10 of deposit or government securities furnished under par. (a).

11 (c) The operator shall furnish the security required under par. (a) in the amount
12 equal to the estimated cost to the state of fulfilling the reclamation plan, other than
13 the cost of long-term care of the mining waste site, in relation to the portion of the
14 mining site that will be disturbed by the end of the following year. The department
15 shall determine the estimated cost of reclamation of each mining site on the basis of
16 relevant factors, including the character and nature of the lands to be reclaimed, the
17 future suitable use of the land involved, the topography of the mining site, the
18 methods of reclamation being employed, the depth and composition of overburden,
19 and the depth of the ferrous mineral deposit being mined.

20 (2) CERTIFICATE OF INSURANCE. The operator shall submit a certificate of
21 insurance certifying that the applicant has in force a liability insurance policy issued
22 by an insurer authorized to do business in this state or, in lieu of a certificate of
23 insurance, evidence that the applicant has satisfied state or federal self-insurance
24 requirements, covering all mining operations of the operator in this state and
25 affording personal injury and property damage protection in a total amount

1 determined to be adequate by the department but not more than \$1,000,000 and not
2 less than \$50,000.

3 **(2m) PROOF OF FINANCIAL RESPONSIBILITY FOR LONG-TERM CARE OF MINING WASTE**
4 **SITE.** An operator shall maintain proof of financial responsibility ensuring the
5 availability of funds for compliance with the long-term care requirements specified
6 in the waste site feasibility study and plan of operation for a period of 40 years after
7 closing of the mining waste site. The operator shall furnish the proof of financial
8 responsibility to the department in one of the following forms:

9 (a) A bond

10 (b) Cash.

11 (c) Certificates of deposit.

12 (d) Government securities.

13 (e) Insurance.

14 **(3) WRITTEN AUTHORIZATION TO MINE.** Upon approval of the operator's bonds or
15 other security under subs. (1) and (2m), mining application, and certificate of
16 insurance, the department shall issue written authorization to begin mining at the
17 permitted mining site in accordance with the approved mining plan, reclamation
18 plan, and mining waste site feasibility study and plan of operation.

19 **(4) RECLAMATION BOND FOR MORE THAN ONE MINING SITE.** Any operator who
20 obtains mining permits from the department for 2 or more mining sites may elect,
21 at the time that the mining permit for the 2nd or any subsequent mining site is
22 approved, to post a single bond under sub. (1) in lieu of separate bonds for each
23 mining site. An operator who chooses to post a single bond under this subsection
24 shall post a bond in an amount equal to the estimated cost to the state determined
25 under sub. (1) of reclaiming all mining sites the operator has under mining permits.